

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Douglas James Critcher
Title : N-(1-ARYLPYRAZOLE-4L) SULFONAMIDES AND THEIR USE AS
PARASITICIDES

Serial No. : 10/593,133 Filed: November 30, 2006
Patent No. : US 7,687,533 Issued: March 30, 2010
Examiner : Rodriguez-Garcia, Valerie
Art Unit : 1626 Confirmation No.: 7562
Customer No. : 25533 Attorney Docket No. PC25930A

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(d)**

Dear Sir:

U.S. Patent Application Serial No. 10/593,133 has been allowed and was granted a patent term adjustment of 607 days. For reasons set forth below, Applicants request a patent term adjustment of only 547 days. The issue in this case is the method of calculating the patent term adjustment to be granted to a patent based upon the Patent Office failure to grant the patent within 3 years from the filing date. Secondly, the final PTA calculation prepared by the PTO failed to include the 13 days previously granted to Applicant in the Notice of Allowance as a delay period between the Applicants' last response and the mailing of the Notice of Allowance. Applicants hereby request that this 13-day period be added back to the final PTA. Under the recent decision of the U.S. District Court for the District of Columbia (Wyeth et al. v. Jon W. Dudas) the patent term adjustment is the sum of prosecution delays attributable to USPTO and the delay in issuing the patent beyond the three years from the filing date, less any period of actual calendar overlap between the prosecution delays and the issuance delay. In addition, Applicants' delay and certain other periods set forth in 35 U.S.C. § 1.54(b) are also excluded. In the present case, there were no Applicants' delays or other exclusions. There are two periods of USPTO delay in the present case. The first period begins 14 months after the filing date, herein, the 35 USC §371 commencement date, November 30, 2006. This delay period ended on March 19, 2009, when the USPTO mailed a restriction election of species requirement. This first period

is 414 days of USPTO delay. The PTO inadvertently excluded a 13-day PTO delay originally granted Applicant in the Notice of Allowance, e.g., the delay attributed to the filing date of the Notice of Allowance, as described above. Therefore, Applicant is entitled to the 427 days for this pre-issuance period.

The second period of delay began three years after the filing date of this application, that is, November 30, 2006. This delay continued until the issuance of the patent on March 30, 2010. This period is 120 days, not 193, of USPTO delay. Since there is no overlap between the prosecution delays and the delay in issuance, Applicants are entitled to a patent term adjustment equal to the sum of the two USPTO delay periods, that is, a patent term adjustment of 427 days + 120 days for a total of 547 days, not the 607 days as calculated by the PTO and printed on the Notice of Grant mailed March 10, 2010. Therefore, Applicants request that the correct patent term adjustment be duly granted to Applicants.

Included herewith is a detailed calendar of the patent term adjustment for this patent. This patent is not subject to a terminal disclaimer.

Applicants believe that pursuant to 37 CFR 1.18(e), a \$200.00 processing fee is due in connection with this application for patent term adjustment. Please charge the required fee(s) to Deposit Account No. 16-1445. However, in light of the facts stated above, if a fee need not be assessed, then Applicants request that such fee not be charged to the account.

Respectfully submitted,

March 31, 2010
Date



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Attachment

PatentTerm®

AIPA Term Calculation Report

APPLICATION INFORMATION			
Docket Number:	PC25930A	User Name:	Miski, Paul
Application Number:	10/593,133	Firm/Company Name:	Pfizer, Inc
Filing Date:	03/07/2005	User Comments:	
AIPA TERM CALCULATION SUMMARY			
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):		US5,141,292A	
International Filing Date:		3/7/97 - 2004Z	
Net Adjustment (Credits):		547 Days	
Net Adjustment Debits:		0 Days	
Patent Term Adjustment:		547 Days	
AIPA Patent Term End Date:		11/11/2025 (1)	
DISCLAIMER: This report is provided for informational purposes only. It is not a legal opinion and is not a substitute for legal advice. It is the responsibility of the user to consult with a qualified attorney for all legal aspects of this matter.			

RULE CALCULATION SUMMARY (2)						
Event	Rule Invoked	Refined Event	Exclusion Days (3)	Debit Days (4)	Credit Days (5)	
11/30/2006 National Stage Commenced under 35 USC 371(b) or (i)		3-Year PTO Issue of Patent PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or in an international application. Period of adjustment (credit(s) begins on the day after the date that is 3 years after the date on which the application was filed under 35 USC 371(b) or (i) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusions periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.733(b). You have elected to analyze this rule in accordance with Wyeth v. Kappos, ___ F.3d ___ (Fed. Cir. 2010).		03/30/2010 Issue Date		
11/30/2006 A Application Fulfilled Requirements of 35 USC 371		14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credit(s) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A); 37 CFR 1.702(a)(1).		03/30/2009 03/19/2009 Restriction / Election-of-Species		
03/19/2009 C Restriction / Election-of-Species		3-Month Applicant Response to Notice or Action Period of adjustment (credit(s) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply is filed. The period, or shortened statutory period, for reply set in this action or notice has no effect on this deadline. 35 USC 154(b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(c)(3)(C); 37 CFR 1.705(c).		03/24/2009 Response to Restriction / Election-of-Species		
You have indicated that no 1.705(c) Showing of Due Care was made.				0		

D 03/24/2009 Response to Elect-on-Species/ Restriction Filed	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the date after the date that is 4 months after the date a reply under 37 CFR 1.11 or in compliance with 37 CFR 1.11(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2)(3).	0
E 04/27/2009 Non-final Action	<p>3-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period of shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	04/27/2009 Non-final Action
F 07/06/2009 Reply after Non-final Action under 37 CFR 1.111	<p>4-Month PTO Response to Applicant's Reply</p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.11 or in compliance with 37 CFR 1.11(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2)(3).</p>	07/06/2009 Reply after Non-final Action under 37 CFR 1.111
G 11/19/2009 Notice of Allowance under 35 USC 151	<p>1-Month Applicant Response to Notice or Action</p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period of shortened statutory period for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	11/19/2009 Notice of Allowance under 35 USC 151

